

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.4346 of 2016 (O&M)

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Date of decision:16.5.2017

Ajay Kumar Dubey

...Petitioner

v.

State of Punjab

Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Ramandeep Singh, Advocate for the petitioner.

Mr. V.P.S. Sidhu, Assistant Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

Ajay Kumar Dubey-petitioner has filed this criminal revision petition against State of Punjab-respondent under Section 401 Cr.P.C. challenging the impugned order dated 10.6.2016 passed by learned Additional Sessions Judge, Ludhiana, whereby the petitioner has been summoned under Section 319 Cr.P.C. to face trial.

From the record, I find that the challan has been presented by the Police against 10 accused Gurpreet Singh alias Kaka and others in FIR No.33 dated 6.2.2014 registered for the offences under Sections 307, 342, 427, 323, 506, 148 and 149 IPC and Sections 25 and 27 of the Arms Act at Police Station Focal Point, Ludhiana. During trial, an application under

Section 319 Cr.P.C. for summoning of accused-Ajay Kumar Dubey was filed. Learned Additional Sessions Judge, Ludhiana, on the basis of statement of the complainant-Radha Krishan, who has been examined as PW-1, accepted the application and summoned the petitioner under Section 319 Cr.P.C. Aggrieved from this order, the present criminal revision petition has been filed by the petitioner.

Notice of motion has been issued in this case.

Mr. V.P.S. Sidhu, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this revision petition.

I have heard learned counsel for the petitioner and learned State counsel and have gone through the record.

From the record, I find that in the FIR Radha Krishan-complainant stated that on 6.2.2014 at about 6.10 p.m., he along with Raji Bhai Patel was sitting in his office at Street No.1. When they were about to start their motorcycle for going towards Street No.2, Gurpreet Singh alias Kaka, who is having his shop at a distance of 100 metres from his shop/office, on seeing them started abusing and gave 'Lalkara'. On the shop of Kaka, Mandeep Singh, Chhotu, Munna, Ajay Dubey along with 6/7 persons were standing there. They all were armed with pistol, country made pistol, kirpan. Gurpreet Singh alias Kaka fired a shot at him two times with a double barrel gun and Mandeep Singh had also fired two shots with his country made pistol with an intention to kill the complainant and they also fired shots 3-4 times on his companion Raji Bhai Patel. Then he and his

friend saved their lives by entering their house. The above said persons damaged his Safari car also. His brother Ram Shankar and his nephew Krishan Mohan were also thrashed by them. The above said persons detained them from outside and they continued firing shots by standing outside their house.

A perusal of the FIR shows that first of all Ajay Kumar Dubey was not stated to be armed with a stick in the FIR as deposed by the complainant while appearing before the trial Court. No specific injury has been attributed to Ajay Kumar Dubey. Ajay Kumar Dubey was not armed with any arm and he had not fired from any pistol etc. There is also no specific act attributed to him like raising 'Lalkara' or injury. During investigation, Ajay Kumar Dubey had been found innocent. While appearing in the Court, Radha Krishan-complainant as PW-1 has stated that the petitioner was armed with a stick, but there is no such mention in the FIR and it is a material improvement. Even in the statement, Ajay Kumar Dubey was not attributed any specific injury or any active role.

For summoning an additional accused, it should appear to the Court that the person who is to be summoned as an additional accused appears to have been involved in the commission of the offence and should be summoned to face trial along with the accused already challaned. From perusal of the record and evidence, it does not appear to the Court that the present petitioner is also involved in the commission of the offence. After the investigation, he was found innocent and his name was kept in column No.2. While appearing as PW-1, the complainant has made material

improvement by showing stick in his hand. There is no specific attribution to him. It does not appear to the Court that the present petitioner is involved in the commission of the offence and should be summoned under Section 319 Cr.P.C.

Therefore, keeping in view the above facts, I find merit in the present criminal revision petition and the same is allowed. The application filed under Section 319 Cr.P.C. is dismissed. The impugned order dated 10.6.2016 passed by the learned Additional Sessions Judge, Ludhiana, is set aside.

May 16, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No